



POLICE DEPARTMENT

July 28, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Alexis Murray-Medouze
Tax Registry No. 935377
76 Precinct
Disciplinary Case No. 2013-9520

The above-named member of the Department appeared before Assistant Deputy Commissioner Claudia Daniels-DePeyster on December 4, 2014, February 26, 2015, March 2, 2015 and April 10, 2015, charged with the following:

1. Said Police Officer Alexis Murray Medouze, on or about January 11, 2012, while off duty and assigned to the 76th Precinct, did wrongfully and without just cause interfere with an official Department investigation.

P.G. 203-10, Page 1, Paragraph 2 (D) – PUBLIC CONTACT-
PROHIBITED CONDUCT
GENERAL REGULATIONS

2. Said Police Officer Alexis Murray Medouze, on or about January 11, 2012, while off duty and assigned to the 76th Precinct, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that she failed to properly identify herself as a Member of the Service to on-duty Members of the Service.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT –
PROHIBITED CONDUCT
GENERAL REGULATIONS

3. Said Police Officer Alexis Murray Medouze, on or about January 11, 2012, while off duty and assigned to the 76th Precinct, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that she failed to follow a directive given to her by on duty Police Officer Rafael Figueroa, Tax #948336.

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P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT –
PROHIBITED CONDUCT
GENERAL REGULATIONS

4. Said Police Officer Alexis Murray Medouze, on or about January 11, 2012, while off duty and assigned to the 76th Precinct, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: she cursed and used profane language towards on duty Uniformed Members of the Service.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT –
PROHIBITED CONDUCT
GENERAL REGULATIONS

The Department was represented by Samuel Yee, Esq., Department Advocate's Office, and Respondent was represented by Eric Sanders, Esq. of The Sanders Firm.

Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. The Department called Police Officer Rafael Figueroa, Police Officer Dilek Kahveci, Sergeant Damon McMullen, Lieutenant John Biscarri and Lieutenant Mary Boykin as witnesses. Respondent called Captain Alex Perez, Police Officer Paula Martin-Pemberton, Dianna Jeffrey, Tanya Thomas and Junior Paton. Respondent also testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

On April 14, 2015, four days after the conclusion of trial, the Honorable Claudia Daniels-DePeyster resigned her position as Assistant Deputy Commissioner, Trials. Respondent was offered the opportunity to have the case retried but declined that offer. Accordingly, the case was reassigned to Assistant Deputy Commissioner Nancy Ryan.¹

¹ Assistant Deputy Commissioner Ryan was present in the courtroom on the final hearing date, April 10, 2015.

DECISION

Respondent is found Guilty of all charges.

INTRODUCTION

This case arises out of an incident that occurred on January 11, 2013 in the 73 Precinct involving an off-duty police officer, Respondent Alexis Murray-Medouze, and three uniformed Impact police officers who were conducting a "courtesy stop" of a vehicle occupied by Respondent's relatives. Respondent stands charged with (i) wrongfully interfering with an official Department investigation; (ii) failing to properly identify as a member of service to on-duty members of the service; (iii) failing to follow a directive given to her by an on-duty police officer and (iv) cursing and using profane language toward uniformed members of the service.

The following facts are undisputed. Police Officers Rafael Figueroa, Dilek Kahveci and Paula Martin were in uniform in a marked police van working an evening tour as part of Impact in the 73 Precinct. (Tr. 17-18, 184-85). Figueroa was driving with Kahveci in the passenger's seat and Martin in the rear seat.

Figueroa pulled the RMP up next to a red SUV parked on Strauss Street. Tanya Thomas was in the driver's seat and her boyfriend, Junior Paton, the uncle of Respondent's children, was in the passenger's seat. Kahveci asked Thomas if everything was "okay" and she responded affirmatively. (Tr. 186-87, 594). Paton questioned why the officers had stopped them and, at that point, Figueroa exited the van and walked around to Paton's window to engage him in conversation. (Tr. 19-20, 641).

Respondent was also sitting in her parked vehicle on Strauss Street with her friend, Dianna Jeffrey. After seeing Paton exit the vehicle to speak to Figueroa, she got out of her vehicle. She stated that she was "on the job" and indicated that Paton was her family member. (Tr. 700). At some point, Respondent told Figueroa that she would not show him her Department ID and asked for his supervisor. (Tr. 709-10). She also yelled to Paton to get back into Thomas' vehicle and not engage Figueroa further. (Tr. 711).

Respondent attempted to enter her vehicle and Figueroa used physical force to prevent her from doing so. (Tr. 23, 712-14). Ultimately, she landed on the ground in the middle of the street. Figueroa subsequently handcuffed Respondent. (Tr. 24, 715). Supervisors arrived, verified that Respondent was a member of the service and she was taken to the 73 Precinct stationhouse. (Tr. 312). Sergeant Biscarri verified that Respondent was under arrest for obstruction of government administration, disorderly conduct and resisting arrest. (Tr. 145, 329). However, at the direction of the duty captain and the executive officer, the arrest was not processed. (Tr. 346).

Respondent was served with the instant charges in July 2013 and filed a civil lawsuit in November 2013 seeking damages for what happened. (Tr. 763).

FINDINGS AND ANALYSIS

At trial, a great deal of testimony focused on attempting to establish whether the "courtesy" stop was legal, whether Figueroa was justified in using physical force and how much force was appropriate, and whether Respondent was denied medical treatment after requesting same. Those issues, while undoubtedly highly consequential to Respondent's civil suit, are of little relevance in this proceeding. The only relevant

questions for this tribunal are whether Respondent is found guilty, by a preponderance of the credible evidence, of the four narrow and discrete charges brought by the Department.

Patrol Guide 212-33 provides that "it must be absolutely clear in the minds of all members of the service that in any confrontation, the burden of proving identity rests on the confronted officer whether on or off duty." The confronted officer is defined as the uniformed member of service ("usually civilian clothed") . . . "whose identity and objectives are not immediately apparent to the challenging officer." The challenging officer is the uniformed member of service to whom an unidentified person states that s/he is a police officer. The Patrol Guide specifically notes that this provision is designed to "safely resolve confrontations between members of the service, both on and off duty," as was the case in the instant matter.

The confronted officer must remain motionless, obey all directions from the officer making the challenge, inform the challenging officer of the location of her Department identification and produce it "slowly, in a controlled manner, without unnecessary movement." P.G. 212-33, p.2, para. 3-7. The challenging officer must then examine the identification to insure validity and call for a patrol supervisor. *Id.* at para. 8-12. While this provision is meant to cover a diverse range of confrontation situations, it is the opinion of this tribunal that Respondent was undoubtedly a "confronted officer" and, as such, the provision provides a tremendous amount of clarity as to how Respondent was obligated to conduct herself when she opted to engage the on-duty police officers by stating she was "on the job." It is within the framework of these obligations set forth in the Patrol Guide that I make the following findings.

Specification 1: Interfering with Investigation

Respondent stands charged with interfering with an official Department investigation. Having examined the evidence and testimony, I find Respondent Guilty as charged.

It is undisputed that Respondent interjected herself into a situation where three uniformed members of service had pulled up next to an SUV and were asking questions. Officers Figueroa, Kahveci and Martin consistently testified that Respondent directed Junior Paton, "don't listen to these little motherfuckers," and to get "the fuck" back in his car. (Tr. 20, 188, 540, 575; see Department's Exhibit ("DX") 3). Setting aside the profanity, Respondent's account is largely similar to that of the three officers. She readily admitted she got out of her vehicle and announced that the individuals in the SUV were her family. She further stated that she told Junior Paton that he could give Figueroa a CCRB and testified, consistently with the three officers, that she told him to go sit in his car and not speak with Figueroa any further. (Tr. 701, 711).

Respondent's counsel asserts that there was no "investigation" taking place, as no laws had been violated, and the Department therefore cannot meet its burden on this first charge. (Tr. 768-773). This tribunal is unpersuaded by counsel's argument. Three uniformed members of service noted in their Activity Logs that they pulled up to Tanya Thomas' vehicle on Strauss Street because it was "improperly parked" or "not parked properly." (DX 3; Respondent's Exhibits ("RX") A-B). They asked the individuals in the vehicle if everything was "okay" and what they were doing. This court views such actions as investigative steps the officers took as part of their patrol duties and further finds that no violation had to occur for Respondent to be found Guilty of interference.

Figueroa, Kahveci and Martin were conducting what they characterized as a "courtesy" stop or check. Respondent interfered by directing Paton not to engage and to get back in his vehicle. If Respondent felt the stop was illegal or improper, she could have remained in her vehicle and called a supervisor or IAB. She could have advised Paton later on as to how to file a CCRB complaint. Instead, she opted to exit her vehicle and attempt to take control of the situation, undermining the authority of three on-duty officers. Accordingly, I find her Guilty of Specification 1.

Specification 2: Failure to Properly Produce Identification

Respondent is next charged with failing to properly identify herself to on-duty members of the service. Based on the evidence and testimony, Respondent is found Guilty.

The Department's witnesses are consistent in their testimony regarding Respondent's failure to produce her Department identification. Figueroa testified that he asked for identification more than once but Respondent declared, "I don't have to show you shit. Get your supervisor here." (Tr. 21). Kahveci similarly stated that, despite asserting she was on the job and being asked more than once for ID, Respondent never produced identification and told the officers, "Call your fucking sergeant, I'm not showing you shit." (Tr. 188-90, 194). She testified that she never saw Respondent's ID until they were at the stationhouse. (Tr. 193-96). Martin also recalled Respondent refusing to show ID and noted same in her Activity Log. (Tr. 543; RX 3).

Respondent's witnesses' accounts are less consistent. Her long-time friend, Dianna Jeffrey, told investigators in 2012 that Respondent went back to the car to get her ID. (RX E). At trial, she explained that she knew Respondent had her ID because "she

told [Figueroa] before that she's a cop." (Tr. 462, 489). She further testified that Respondent only showed ID to Figueroa, not the two female officers. (Tr. 494). Tanya Thomas, another longtime acquaintance, told investigators in 2012 that she did not see Respondent display an ID card. (RX F). However, at trial, she testified that Respondent held up her ID in a black wallet when she told Figueroa she was on the job. (Tr. 603-04). Junior Paton, who testified that Respondent helped raise him, similarly told investigators in 2012 that Respondent was carrying a wallet but that he did not see her present identification. (RX G). At trial, though, he testified that she showed Figueroa an "ID badge," clarifying that it looked like a picture ID. (Tr. 644-45).

Respondent's own statements are markedly different from those of her witnesses. She contended that Kahveci walked back to her car with her and she "presented" the ID to her, contending that Kahveci was satisfied with the ID and walked away. (Tr. 706-07). Respondent asserted that Figueroa then became agitated and demanded her ID but that she refused and told him she would show it to his supervisor. (Tr. 710).

I do not find the statements of Respondent's witnesses to be credible as they do not corroborate Respondent's account in any way. Her three witnesses testified that she showed ID to Figueroa specifically when Respondent herself admitted that she refused to show him ID and claimed she showed it to Kahveci only. Kahveci contended, like the other two officers, that Respondent did not present any ID, was handcuffed and brought to the stationhouse. If Kahveci had seen the ID, as Respondent claimed, there would have been no reason for her not to say so. Respondent's counsel argues that she denied seeing the ID in an effort to protect Figueroa but this tribunal finds that argument strains credulity. Kahveci had never worked with Figueroa prior to the night in question and

does not work in the same command as him now. (Tr. 183, 202). It is therefore difficult to fathom that she would risk lying to multiple supervisors for him at the time of the incident and to this tribunal again three years later, especially regarding an incident involving another member of the service. Moreover, there is no actual evidence of Kahveci colluding with Figueroa to lie, merely the speculation of Respondent's counsel.

Three uniformed members of the service have consistently maintained since 2012 that Respondent never showed her ID. Respondent was obligated to present her ID to the challenging officer "slowly, in a controlled manner" for verification. P.G. 212-33, p.2, para. 7. I find that the credible evidence shows that she refused to do so.

Respondent's counsel correctly points out that Figueroa was obligated to call for a supervisor, which he did. However, there is absolutely nothing in the Patrol Guide that allowed Respondent to insist on waiting for a supervisor before presenting her identification. She was obligated under the Patrol Guide to state the location of her identification and then present it for inspection. Because I find she did not do so, Respondent is Guilty of Specification 2.

Specification 3: Failure to Comply with Directive

Respondent is charged with failing to follow Figueroa's directive to remain outside her vehicle. Because both Figueroa and Respondent confirmed in their testimony that he directed her not to reenter her vehicle and that she thereafter attempted to enter the vehicle, I find her Guilty of Specification Three.

Figueroa testified that he directed Respondent to wait for a supervisor and not to get back in her vehicle. (Tr. 22). He explained that he did not want Respondent getting back in the vehicle because he was concerned about safety as Respondent, who he had

not been able to verify as a member of the service, was agitated and he did not know what she had in her vehicle. (Tr. 25, 74-75). Kahveci agreed that Figueroa repeatedly told Respondent, "You can't go in your car." (Tr. 191).

Respondent confirmed that she decided to sit in her car and claimed Figueroa told her, "You try to sit in your car and see what the fuck I am going to do to you . . . See if I am not going to fucking lock you up." (Tr. 712-13). She stated that she then attempted to get in the car until she was physically stopped from doing so by Figueroa.

While there is disagreement as to the language used by the parties, Figueroa and Respondent's accounts are the same in that both indicate Respondent went to get in her car, Figueroa told her not to do so and Respondent attempted to enter the vehicle despite his admonition. The Patrol Guide plainly provides that a confronted officer, stating that s/he is a police officer, must "obey all directions from the officer making the challenge." P.G. 212-33, p.2, para.4. Respondent was thus obligated to adhere to Figueroa's directive, regardless of whether she believed waiting in her car for a supervisor was a better way to deescalate the situation. As the confronted officer, she needed to take directions from the uniformed officer and did not do so.

Respondent's own witness, Captain Alex Perez, agreed that, under the Patrol Guide, the "off duty or plain clothed member of the service will comply with all orders, all instructions from the uniformed on-duty member of the service." (Tr. 376). He believed that even if Figueroa didn't act "100 percent correct," it was still "[Respondent's] responsibility to comply with his verbal instructions," explaining that there were "too many unforeseen possibilities that could have happened by allowing her to get back in the car." (Tr. 411).

Because Respondent did not follow Figueroa's directive, thereby violating Patrol Guide 212-33, p.2, para.4, she is Guilty of Specification 3.

Specification 4: Discourtesy (Profane Language)

Respondent is charged with cursing and using profane language towards on duty uniformed members of the service. Because the evidence overwhelmingly indicates that she did curse and use profanity toward multiple members of the service, I find her Guilty as charged.

As outlined above, both Figueroa and Kahveci testified that Respondent referred to them as "little motherfuckers" and said "I'm not showing you shit" when asked for identification. Kahveci further noted that Respondent's use of profanity was "repeated." (Tr. 196). Officer Martin, Respondent's witness, noted similarly in her Activity Log that Respondent referred to the officers as "little fuckers." (RX 3).

Multiple uniformed members of the service testified that Respondent continued to scream and curse once at the stationhouse. Lieutenant John Biscarri, who arrived at the scene and directed everyone back to the stationhouse, could not recall the exact profanity used but testified that Respondent was "irate . . . screaming . . . very, very discourteous." (Tr. 308, 312-13). Sergeant Damon McMullen, who was acting as desk officer when Respondent was brought into the stationhouse, stated that Respondent was "cursing" and "combative." (Tr. 141-42). Finally, Lieutenant Mary Boykin, the integrity control officer in the 73 Precinct on the date in question, testified that as she was coming down the stairs, she heard a female "screaming, shouting profanity and yelling at officers." (Tr. 355). She was "shocked" to learn that Respondent, who she described as "belligerent" and using "vulgarity language," was a member of the service. (Tr. 355-56, 359). This

Court notes that these three uniformed members were not present at the initial confrontation and were not shown to have any motive to lie regarding Respondent's demeanor and diction.

Respondent neither admitted to nor directly denied using profanity. Her counsel, however, asserted in summations that while he does not know if Respondent used profane language, he "[doesn't] even care." (Tr. 788). Counsel contended that given the situation Respondent had "every right to be pissed off" and "every right to say, '[t]his is fucking bullshit . . . fuck you.'" He argued that Respondent did not lose her rights as a citizen to express herself, reasoning that "[s]he had every right to be upset. . . And being upset means sometimes we do things that are not necessarily pleasant to hear." (Tr. 789).

Respondent is not absolved of her obligations as a member of the Department just because she was upset, perhaps justifiably so, or because she has a constitutional right to free speech like all U.S. citizens. While Respondent's words were not a violation of law, cursing at other members of the Department is a violation of Department policy and Respondent is accountable to the Department for her actions and words.

Three uniformed members of the service consistently testified that Respondent referred to them as "little motherfuckers" or "little fuckers" at the outset of the confrontation. Three supervisory members of the service, who were not parties to the initial confrontation, testified to hearing Respondent shouting profanity and cursing at the stationhouse. This tribunal cannot ignore the overwhelming evidence indicating that Respondent was repeatedly cursing and using profane language toward other members of the service on January 11, 2012, both at the scene of the incident and at the stationhouse. Accordingly, Respondent is found Guilty of Specification 4.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y. 2d 222 (1974).

Respondent was appointed to the Department on July 1, 2004. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found guilty of interfering with a Department investigation, refusing to present her Department identification to on-duty members of the service, refusing to comply with a directive from an on-duty police officer, and cursing and using profane language toward other members of the service. The Department seeks a penalty of 30 vacation days.

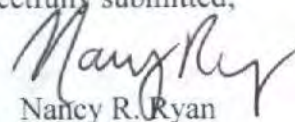
In a somewhat similar case, a fifteen-year police officer with no prior disciplinary record forfeited 15 vacation days for discourteously refusing an on-duty officer's order that he exit his car and roll down his windows. The Respondent, who was off duty, had been stopped by Impact police officers for over-tinted windows. Unlike the instant matter, however, Respondent directed the officers as to where to locate his ID card. See *Case No. 2012-8170* (Feb. 13, 2015). In another analogous case, a nineteen-year police officer, with one prior adjudication, negotiated a penalty of 30 suspension days for interfering in the arrest of two individuals while off-duty, failing to obey all directions from uniformed members of the service, failing to produce her Department identification card during a confrontation situation and yelling profanities toward other members of the service. *Case No. 2010-1905* (Mar. 21, 2013); see also *Case No. 2011-3504* (Dec. 10, 2012) (six-year police officer with no prior disciplinary history negotiated a penalty of 30

vacation days for, while off-duty, being discourteous to an on-duty member of the service during which she directed profanities toward the on-duty member, and for failing to immediately provide her Department identification and exit her vehicle upon request from the on-duty member).

Additionally, in *Case No. 70940/96* (Mar. 9, 1998), an eleven-year police officer with no prior disciplinary record forfeited 30 pretrial suspension days for disregarding direct orders of an on-duty sergeant and failing to produce his Department identification after he intervened in an enforcement situation while off duty near his residence. The hearing officer in that case noted that Respondent's "misconduct was, at the very least, a contributing factor in the escalation of a minor summons incident into an ugly scene." (Decision at 43). I find the same to have been true in the instant matter.

Given the specifications and the Department precedent outlined above, I find the Department's requested penalty to be reasonable and appropriate. Accordingly, I recommend that Respondent forfeit 30 vacation days.

Respectfully submitted,



Nancy R. Ryan

Assistant Deputy Commissioner – Trials

APPROVED

NOV 20 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ALEXIS MURRAY-MEDOUZE
TAX REGISTRY NO. 935377
DISCIPLINARY CASE NO. 2013-9520

Respondent was appointed to the Department as a Police Officer on July 1, 2004, having been previously appointed to the Department on May 30, 2000 as a School Safety Agent. Her last three annual evaluations were as follows: she received 3.0 overall ratings of "Competent" in 2013 and 2014, and a 3.5 rating of "Highly Competent/Competent" in 2012. She has no medals.

Respondent has no prior formal disciplinary record.

[REDACTED]

For your consideration.



Nancy R. Ryan
Assistant Deputy Commissioner – Trials